

EXCEPTION



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OPEN MEETING AGENDA ITEM

BEFORE THE ARIZONA CORPORATION

ORIGINAL

COMMISSIONERS

JEFF HATCH-MILLER, CHAIRMAN

MARC SPITZER

WILLIAM A. MUNDELL

MIKE GLEASON

KRISTEN K. MAYES

2006 JAN 18 P 3:12

AZ CORP COMMISSION
DOCUMENT CONTROL

**IN THE MATTER OF THE
APPLICATION OF WATER
UTILITY OF GREATER
TONOPAH, INC., AN ARIZONA
CORPORATION, FOR
AUTHORITY TO ISSUE DEBT.**

DOCKET NO. W-02450A-05-0607

**EXCEPTIONS OF WATER UTILITY OF
GREATER TONOPAH, INC.**

Water Utility of Greater Tonopah, Inc. ("WUGT") pursuant to A.A.C. R14-3-110(B), respectfully files Exceptions to the Recommended Order ("RO") submitted January 9, 2006 in the above captioned.

WUGT appreciates the efforts of Staff and the Hearing Division in promptly processing its financing application for the funds necessary to comply with the unfunded arsenic mandate. WUGT supports the Staff Report and the RO with the minor exception of the requirement that WUGT file within 90 days, a plan, acceptable to Staff, detailing how it will increase its equity to a minimum of 40 percent. As explained below, this requirement is unnecessary and, under the circumstances, the requirement of Staff's acceptance thereof is inappropriate.

1 The Requirement is Unnecessary.

2 WUGT has no objection to submitting a plan for increasing its equity position
3 to 40% over time. In fact, WUGT, as a compliance filing associated with Decision No. 68037
4 recently provided Staff with financial projections through 2010. The focus of this
5 compliance filing was whether separate rates should be filed for a new area added to WUGT's
6 certificated area by Decision No. 68037. However, the filing also includes a projection of
7 WUGT's equity and projects WUGT equity in excess of 40% in or before 2010. Having
8 already submitted a plan for reaching the minimum equity level, WUGT respectfully suggests
9 the requirement is unnecessary.
10

11 The Requirement of Staff's Acceptance is Inappropriate.

12 In the event the Commission does not eliminate the filing of a plan requirement
13 as unnecessary, WUGT also objects to the provisions of the RO stating: "Compliance with
14 this condition shall be recognized only if Staff finds the plan acceptable." While WUGT
15 anticipates that it will be able to submit a plan acceptable to Staff, such a plan is necessarily
16 dependent upon various assumptions and projections (e.g., internal cash flow, growth, rates,
17 capital expenditures, external debt). Therefore, it is possible that WUGT and Staff will
18 disagree on one or more of these assumptions or projections, including the time frame for
19 reaching the 40% equity level. WUGT is concerned that by treating such a disagreement with
20 Staff as non-compliance with the Commission Decision approving financing critical to
21 WUGT, will create concerns for the lender (the Water Infrastructure Financing Agency). For
22 example WIFA may become concerned that Staff's failure to approve the equity plan
23 somehow nullifies the Commission's approval of the underlying financing.
24
25

1 WUGT respectfully suggests that the statement "Compliance with this
2 condition shall be recognized only if Staff finds the plan acceptable" be eliminated from the
3 RO. (See, page 4, lines 13-14 and page 5 lines 20-21). In the event of disagreement with the
4 plan submitted by WUGT, Staff can request a hearing on the plan or deal with the equity
5 issue as part of WUGT's next rate filing.¹ In any event, WUGT believes it is entitled to an
6 opportunity for a hearing on the reasonableness of its plan before WUGT is deemed in non-
7 compliance with a Commission Decision.
8

9 Conclusion

10 WUGT respectfully requests that Finding of Fact 20b and the third ordering
11 paragraph be deleted from the RO, or, at a minimum, the deletion of the last sentence thereof,
12 which provides: "Compliance with this condition shall be recognized only if Staff finds the
13 plan acceptable."
14

15 DATED this 18th day of January, 2006.

16
17 CURTIS, GOODWIN, SULLIVAN,
18 UDALL & SCHWAB, P.L.C.

19 By: 

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24 Attorneys for Water Utility of Greater
Tonopah

25 ¹ The RO anticipates a rate filing is likely by WUGT during 2006 and requires such a filing in 2007 if WUGT's T.I.E.R. is not 1.0 or greater by December 31, 2006. In actuality, WUGT is currently planning to make a rate filing before June of 2006.

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